

General Information Letter: Requests for refund must be made by filing of a proper claim.

June 6, 2000

Dear:

This is in response to your letter dated May 1, 2000 in which you request a Letter Ruling. Department of Revenue ("Department") regulations require that the Department issue only two types of letter rulings, Private Letter Rulings ("PLRs") and General Information Letters ("GILs"). PLRs are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. GILs do not constitute statements of agency policy that apply, interpret or prescribe the tax laws and are not binding on the Department.

Although you have not specifically requested either type of ruling, the nature of your question and the information provided require that we respond only with a GIL.

In your letter you stated:

Please consider this a request for a letter ruling on the calculation of penalty for the above referenced taxpayer. The tax liability for this taxpayer for 1999 is 11793.00. 90 percent of that number is \$10613.70. After taking into consideration the credit they receive for paying tax in the State of xxxxxxxx, the estimated payments that should have been made were \$1205.00 per quarter. The xxxxxx paid 1268.00 per quarter in addition to the withholding of 4.00. On the IL-2210, the calculation reduces the liability by the credit first, then multiplies the remaining liability by 90 percent, resulting in a penalty situation. This seems inequitable, as the credit was generated by the timely payment of tax in another state. The xxxxxx have paid their tax and the penalty as stated on their IL-2210 in full, and are requesting a refund of the penalty in the amount of \$64.00.

DISCUSSION

The legal department has received your correspondence but, due to procedural constraints, is unable to help you. As the tax and penalty have been paid, the statutes require that the taxpayers must file a claim for refund in order to recover the disputed sum. Should their claim be denied they would then have to raise the issues in a hearing. (IITA §909 et. Seq.)

As mentioned above, this is merely a general information letter and not a statement of policy and is not binding upon the Department. I hope that this has been helpful to you. The Department maintains a website, which can be accessed at www.revenue.state.il.us. If you have additional questions please feel free to contact me at the above address.

IT 00-0047-GIL

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Very Truly Yours,

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